

#16
J. Douglas
3/5/01

Docket No.: 1293.1053/MDS/JGM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Ju-Ha PARK

Serial No.: 09/163,977

Filed: September 30, 1998

Group Art Unit: 2614

Examiner: Tran, T.

For: METHOD OF ACQUIRING PROGRAM GUIDE INFORMATION, PROGRAM
GUIDE METHOD APPROPRIATE FOR THE SAME, AND PROGRAM GUIDE
APPARATUS

RECEIVED
FEB 27 2001
Technology Center 2600

LETTER TO THE EXAMINER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

On page 2, item 1, of the Final Office Action mailed February 13, 2001, the Examiner states that a Continued Prosecution Application (CPA) has been established. However, it is respectfully submitted that, as payment has not been authorized or otherwise made for the filing fee, the CPA has not been finally established.

As evidenced on the attached CPA Request Transmittal of January 29, 2001, the Total Fees Due box reflects a total of \$1312.00. This total includes \$322.00 for claims fees, \$710.00 for the filing fee, and \$280.00 for a Petition for a Two Month Extension of time. In the Method of Payment box 8, which provides the specific directions as to paying for Total Fees Due for the CPA, the unchecked box that otherwise gives authority to charge the Total Fees Due to the

Deposit Account was left unchecked. As such, of the Total Fees Due, none of these fees were authorized to be charged to the Deposit Account.

As also indicated in box 8, a payment of \$280.00 for a Petition for two-month extension of time related to the above-referenced application was made. However, this amount was paid using a check, and was specifically not authorized to be made through the Deposit Account. Further, this amount was specifically designated in box 8 as paying for the Petition for a two-month extension of time. The enclosed copies of the date-stamped postcard receipt (dated January 29, 2001) and canceled check show that the Petition fee was paid using a check and not through the Deposit Account.

As such, the Deposit Account was specifically not authorized to charge *any* amount in connection with the Total Fees Due indicated on the CPA Request Transmittal.

It is noted that the General Authorization box 9 was checked. However, General Authorization only gives a authorization to charge filing fees to the Deposit Account "to maintain pendency" of the application. The phrase "to maintain pendency" only gives authorization to pay filing fees to the extent that the filing fees are required to keep the application from going abandoned. For a CPA, the failure to pay a filing fee does not result in the automatic abandonment of the application, and thus payment of the filing fee is not required to maintain the pendency of the application. Instead, the failure to pay the filing fee results in the issuance of a Notice of Missing Parts.

As such, the charge to the Deposit Account was improper since the charge of the filing fee for the CPA was not required "to maintain pendency" of the application. A request for refund has been separately applied for.

Thus, contrary to the assertion of the Examiner, the CPA has not been established and action should not have been taken until the filing fee has been paid, and it is therefore requested that the Final Office Action of February 13, 2001 be withdrawn, and that a Notice of Missing Parts be issued for the instant CPA. MPEP 201.06(d).

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

Respectfully submitted,

STAAS & HALSEY LLP

By: 

Michael D. Stein
Registration No. 37,240

700 Eleventh Street, N.W.
Suite 500
Washington, D.C. 20001
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

Date: 2/27/01

STAAS & HALSEY LTD.
SPECIAL (PTO) ACCOUNT
700 ELEVENTH STREET, NW
SUITE 500
WASHINGTON, DC 20001-4507

Bank of America

9738

NUMBER 9738

15-120/540

PAY: ****TWO HUNDRED EIGHTY AND 00/100 DOLLARS****

DATE 01/29/01 AMOUNT ***\$280.00***

TO THE **COMMISSIONER OF PATENTS AND TRADEMARKS**
ORDER
OF

J. W. W.

ON THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK. HOLD AT AN ANGLE TO VIEW.

"009738" "054001204" "000002619601" "0000028000"

PATENT AND TRADEMARK OFFICE
13-10-0001
01-30-2001
FOR CREDIT TO THE
U.S. TREASURY

BEST AVAILABLE COPY

Please return this card, indicating receipt date and Serial No., if applicable, of the following

CPA Request Transmittal, Petition for two-month extension of time &
check for \$280.00

Applicant(s):

Ju-Ha PARK

Title: METHOD OF ACQUIRING PROGRAM GUIDE...

Serial No.:

09/163,977

Filing Date:

September 30, 1998

Docket No.:

1293.1053/MDS/JGM

Date:

January 29, 2001

Please return this card, indicating receipt date and Serial No., if applicable, of the following
CPA Request Transmittal, Petition for two-month extension of time &
check for \$280.00

Applicant(s):

Ju-Ha PARK

METHOD OF ACQUIRING PROGRAM GUIDE...

Title:

09/163,977

Serial No.:

September 30, 1998

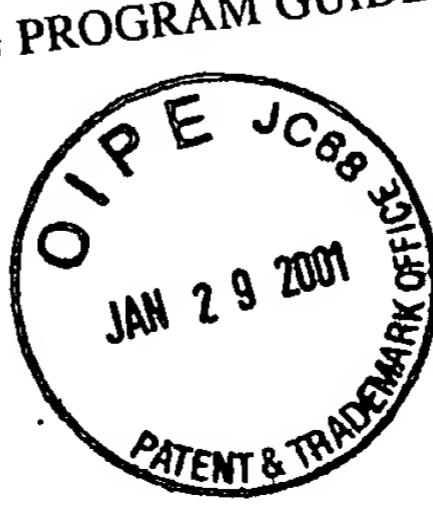
Filing Date:

1293.1053/MDS/JGM

Docket No.:

January 29, 2001

Due Date:



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CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST TRANSMITTAL
(INCLUDING FILING FEE AND/OR PETITION FOR
EXTENSION OF TIME AND FEE)

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:

DUPLICATE

To: Assistant Commissioner for Patents Box CPA Washington, DC 20231	Attorney Docket No.	1293.1053/MDS/JGM		
		Express Mail Label No.		
First Named Inventor	Ju-Ha PARK			
Application No.	09/163,977	Group Art Unit	2614	
Filing Date	September 30, 1998	Examiner	T. TRAN	
CPA Filing Date				
Title of Invention	METHOD OF ACQUIRING PROGRAM GUIDE INFORMATION, PROGRAM GUIDE METHOD APPROPRIATE FOR THE SAME, AND PROGRAM GUIDE APPARATUS			

This is a request for a [X] continuation or a [] divisional application under 37 CFR 1.53(d) (continued prosecution application (CPA)) of the above-identified, prior nonprovisional application.

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. A Notice will be placed on a patent issuing from a CPA, except for reissues and designs, to the effect that the patent issued on a CPA and is subject to the twenty-year patent term provisions of 35 USC 154(a)(2).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

1. [] Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the above-noted prior nonprovisional application.
2. [] A preliminary amendment is enclosed.
3. [] This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. [] **DELETE** the following inventor(s) named in the prior nonprovisional application:
 - b. [] The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. [] A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. [] Information Disclosure Statement (IDS) is enclosed:
 - a. [] PTO-1449
 - b. [] Copies of IDS Citations

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS	29 - 20 =	9	X \$ 18.00 =	\$ 162.00
	INDEPENDENT CLAIMS	5 - 3 =	2	X \$ 80.00 =	160.00
	MULTIPLE DEPENDENT CLAIMS (if applicable)			+ \$270.00 =	0.00
				BASIC FEE	710.00
	Since an Official Action set an <u>original</u> due date of <u>November 29, 2000</u> , petition is hereby made for an extension of time to cover the date this CPA is filed, for which the requisite fee is enclosed (1 month (\$110); 2 months (\$390); 3 months (\$890); 4 months (\$1,390); 5 months (\$1,890)): (\$390.00-\$110.00 for one-month extension of time filed December 29, 2000)				280
	Total of above Calculations	=		\$	1312.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.9, 1.27, 1.28).			-	
				TOTAL FEES DUE =	\$ 1312.00

6. Small entity status: Applicant claims small entity status. See 37 C.F.R. 1.27. proper and desired.

7. Applicant requests suspension of action under 37 C.F.R. 1.103(b) for a period of _____ months (not to exceed 3 months (and the fee under 37 C.F.R. 1.17(i) is enclosed).

8. New Attorney Docket Number, if desired _____
(prior application attorney docket number will carryover to this CPA unless a new attorney docket number has been provided herein).

9. Other:

8. METHOD OF PAYMENT

A check in the amount of \$280.00 for the two month extension of time is enclosed.

Charge "TOTAL FEES DUE" to Deposit Account No. 19-3935. (A duplicate copy of this form is enclosed.)

9. GENERAL AUTHORIZATION

The Commissioner is hereby authorized to credit any overpayment or charge any additional fees under 37 CFR 1.16 (filing fees) or 37 CFR 1.17 (processing fees) during the prosecution of this application and of any related application(s) claiming benefit hereof pursuant to 35 USC §120 to maintain pendency hereof and of any such related application to:
Deposit Account No. 19-3935.

10. NEW CORRESPONDENCE ADDRESS



21171

PATENT TRADEMARK OFFICE

11. SIGNATURE OF ATTORNEY OR AGENT REQUIRED

NAME	Michael D. Stein	REGISTRATION NO.	37,240
SIGNATURE		DATE	1/29/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Ju-Ha PARK

Serial No.: 09/163,977

Group Art Unit: 2614

Filed: September 30, 1998

Examiner: T. TRAN

For: **METHOD OF ACQUIRING PROGRAM GUIDE INFORMATION, PROGRAM GUIDE METHOD APPROPRIATE FOR THE SAME, AND PROGRAM GUIDE APPARATUS**

REQUEST FOR REFUND TO DEPOSIT ACCOUNT

Assistant Commissioner of Patents
Washington, D. C. 20231

Sir:

Attached hereto is a copy of a Monthly Statement of Deposit Account which indicates a charge of \$710.00 for the above-referenced patent application.

Also attached hereto are copies of a Continued Prosecution Application (CPA) Request Transmittal, date-stamped postcard receipt (dated January 29, 2001) and canceled check showing a payment of \$280.00 for a Petition for two-month extension of time related to the above-referenced application.

On the CPA Request Transmittal, the Total Fees Due Box reflects a total of \$1312.00, which includes \$322.00 for claims fees, \$710.00 for the filing fee, and \$280.00 for a Petition for a Two Month Extension of time.

In the Method of Payment box 8, of the Total Fees Due, none was authorized to be charged to the Deposit Account. A check for \$280.00 was enclosed, but this amount was specifically designated in box 8 as paying for the Petition for a two-month extension of time. As such, the Deposit Account was specifically not authorized to charge *any* amount in connection with the Total Fees Due indicated on the CPA Request Transmittal form, as indicated by the unchecked box that gives authority to charge the "TOTAL FEES DUE" to the Deposit Account.

It is noted that the General Authorization box 9 was checked. However, box 9 only gives a general authorization to charge filing fees to the Deposit Account "to maintain pendency" of the application. The phrase "to maintain pendency" only gives authorization to pay filing fees to the extent that the filing fees are required to keep the application from going abandoned. For a CPA, the failure to pay a filing fee does not result in the automatic abandonment of the application, but instead results in the issuance of a Notice of Missing Parts. As such, the charge to the Deposit Account was improper since the charge of the filing fee for the CPA was not required "to maintain pendency" of the application.

Serial No.: 09/163,977

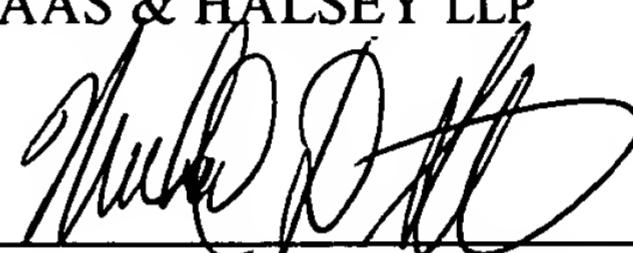
Docket No.: 1293.1053/MDS/JGM

Accordingly, it is respectfully requested that this charge be re-credited to Deposit Account No. 19-3935 and that the Patent Office acknowledge this credit in writing to the undersigned.

It is further requested that the Final Office Action of February 13, 2001 be withdrawn, and that a Notice of Missing Parts be issued for the instant CPA. MPEP 201.06(d).

Respectfully submitted,

STAAS & HALSEY LLP

By: 

Michael D. Stein

Registration No. 37,240

700 Eleventh Street, NW
Suite 500
Washington, D.C. 20001
(202) 434-1500

Date: 2/27/01

**U.S. Patent and Trademark Office**
OFFICE OF FINANCE**Return To:****USPTO**
Home
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Page**Deposit Account Statement**

Requested Statement Month: February 2001
Deposit Account Number: 193935
Name: STAAS & HASLEY
Attention:
Address: 700 ELEVENTH STREET NW
City: WASHINGTON
State: DC
Zip: 20001

DATE	SEQ	POSTING REF	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
02/01	131	09127723		704	-\$60.00	\$15,485.00
02/02	1	08912237	1046.1166-JD	103	-\$36.00	\$15,521.00
02/02	2	08912237	1046.1166-JD	102	-\$78.00	\$15,599.00
02/02	7	09069780	1071.1043-CI	131	\$710.00	\$14,889.00
02/02	8	09069780	1071.1043-CI	102	\$720.00	\$14,169.00
02/02	9	09069780	1071.1043-CI	103	\$126.00	\$14,043.00
02/02	36	09694005	1364.1009/RA	101	\$355.00	\$13,688.00
02/02	60	1629040		372	\$100.00	\$13,588.00
02/02	580	09674328		704	-\$220.00	\$13,308.00
02/02	581	09674328		704	-\$40.00	\$13,848.00
02/05	55	09603204	1293.1126	581	\$40.00	\$13,808.00
02/05	56	09598498	1188.1013/MD	581	\$40.00	\$13,768.00
02/05	57	29130913	1419.1037/JD	581	\$40.00	\$13,728.00
02/07	17	08597916	1046.1122/MC	131	\$710.00	\$13,018.00
02/07	18	08597916	1046.1122/MC	102	\$480.00	\$12,538.00
02/07	19	08597916	1046.1122/MC	115	\$110.00	\$12,428.00
02/07	46	09749428		704	-\$30.00	\$12,458.00
02/08	2	09218164		103	\$324.00	\$12,134.00
02/08	3	09218164		102	\$390.00	\$11,744.00
02/08	4	PAYMENT		701	-\$20,000.00	\$31,744.00
02/08	46	09241301	1330.1020/JR	116	\$10.00	\$31,734.00
02/09	2	09300431	614.1968	117	\$890.00	\$30,844.00
02/09	3	09300431	614.1968	131	\$710.00	\$30,134.00
02/09	4	09300431	614.1968	102	\$320.00	\$29,814.00
02/09	10	09087503	1082.1018/EV	102	-\$156.00	\$29,970.00
02/09	14	09739745	782.1081/RAG	101	-\$710.00	\$30,680.00
02/09	15	09739745	782.1081/RAG	102	-\$160.00	\$30,840.00
02/13	7	09248003	862.1420/DMP	103	\$36.00	\$30,804.00
02/13	62	75808598	22.2023	364	\$50.00	\$30,754.00
02/14	5	09467759	1046.1001C2D	102	\$80.00	\$30,674.00
02/14	6	09467759	1046.1001C2D	103	\$36.00	\$30,638.00

02/14 85	08829232	826.1383/JDH	115	\$110.00	\$30,528.00
02/14 133	08970968	1004.1043	131	\$710.00	\$29,818.00
02/14 134	08970968	1004.1043	115	\$110.00	\$29,708.00
02/15 4	08091421		704	-\$1,210.00	\$30,918.00
02/15 98	09778962	1568.1009	101	\$710.00	\$30,208.00
02/15 99	09778962	1568.1009	102	\$80.00	\$30,128.00
02/16 2	09108183	122.1205-D	148	\$110.00	\$30,018.00
02/16 29	09779624		704	-\$368.00	\$30,386.00
02/20 50	09781323		704	-\$640.00	\$31,026.00
02/20 54	09781324		704	-\$80.00	\$31,106.00
02/22 3	09738285		704	-\$355.00	\$31,461.00
02/22 12	75579930		704	-\$215.00	\$31,676.00
02/23 1	09163977	Q51897	131	\$710.00	\$30,966.00
02/23 54	09779497	1095.58/JD	102	\$80.00	\$30,886.00
02/23 72	09784133	1586.1001	104	\$270.00	\$30,616.00
02/26 160	09215157	1065.1025/JD	115	\$110.00	\$30,506.00
02/26 303	09785272		704	-\$80.00	\$30,586.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$15,425.00	\$9,277.00	\$24,438.00	\$30,586.00

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